

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 94-191-T - ORDER NO. 97-74
JANUARY 27, 1997

IN RE: Application of Jimmie Ray Collins DBA) ORDER
Collins Moving & Storage, 3097 N.) DENYING
Blackstock Road, Spartanburg, SC 29301,) MOTION
for a Class E Certificate of Public)
Convenience and Necessity.)

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion of Jimmie Ray Collins DBA Collins Moving & Storage (Collins or the Company) for an Order from the Commission dismissing each of the Intervenor from the proceeding, or in the alternative, for a Protective Order of the Commission ruling that Collins is not required to respond to the discovery requests of two of the Intervenor until such time as the Intervenor are represented by an attorney. Collins noted that there are four (4) Intervenor in this proceedings, and that none of them have retained an attorney to represent them. Collins further states that on December 10, 1996, M. A. Carey, as a representative of "all Intervenor," partially answered the Applicant's interrogatories to each of the Intervenor. Further, Collins notes that M. A. Carey and P. A. Carey have also propounded interrogatories to the Applicant. The Company states its belief that Commission regulations prohibits this representation of corporate parties by non-lawyers. Collins then

quotes our Regulation 103-804(S)(1) which states who may act as a representative in Commission proceedings. Collins goes on to cite various cases which state that the signing of pleadings is equivalent to the practice of law.


We would note that P. A. Carey filed a return to the Motion as President of Carey Moving & Storage. Carey stated that in answering Collins interrogatories, that it was error to use the term "all Intervenors," and that his intent was to answer only for the Carey companies. Carey states that he has not discussed the answers with Bill Bland or Julius Dickert, Presidents of the respective Intervenor corporations, and could not have answered for them. Carey further states his belief that they have sent their own answers. Indeed the Commission has received an answer from Bill Bland of Lytle's Transfer & Storage, Inc., which states that using the term "all Intervenors" was not representative of Lytle's Transfer & Storage in the case, and that Lytle's answered the interrogatories separately from the Careys.

We have examined the case law in this matter, and we are not convinced that either issuing interrogatories or the answering of interrogatories in this case constituted the practice of law. Our Regulation 103-851(B) states in part that any party of record may serve upon other parties of record written interrogatories to be answered. Therefore, we believe that the Intervenors in this matter had the right to serve written interrogatories. We are simply not convinced that this is a practice of law from the authority quoted by Collins. Although we will concede that

submitting answers using the terminology "all Intervenor" appears to be representative on its face, the explanation propounded by Carey would indicate that the answers only intended to be representative of the Careys themselves, and not any of the other Intervenor. This is verified by the filed statement of Lytle's Transfer & Storage, Inc. Therefore, based on the above captioned reasoning, we must deny the Motion of Collins to Dismiss and for Protective Order.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)